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07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
09 AT SEATTLE

10 CHRISTOPHER EDWARD MILO,)
11) CASE NO. C12-0933-JLR-MAT
12 Plaintiff,)
13)
14 v.)
15) REPORT AND RECOMMENDATION
16 MICHAEL ASTRUE,)
17 Commissioner of Social Security,)
18)
19 Defendant.)
20)
21)

22 Plaintiff brought this action to seek judicial review of the denial of his application for
23 Disability Insurance Benefits by the Commissioner of the Social Security Administration. The
24 parties have now stipulated that this case should be reversed and remanded pursuant to sentence
25 six of 42 U.S.C. § 405(g) because plaintiff had good cause for not submitting the new and
26 material July 12, 2012 decision of the Department of Veterans Affairs (VA) finding plaintiff
27 unemployable effective December 24, 2008, prior to filing the Complaint in this case. (Dkt.
28 19.)

29 Based on the stipulation of the parties, the Court recommends this case be REVERSED

01 and REMANDED for further administrative proceedings pursuant to sentence six of § 405(g).
02 The Appeals Council will remand the case for a de novo hearing. The parties stipulate that, on
03 remand, the Administrative Law Judge will: (1) provide plaintiff with the opportunity for a
04 new hearing; (2) evaluate and assess the July 12, 2012 VA decision and the VA medical
05 evidence submitted to the Appeals Council; (3) reevaluate and determine the weight to give the
06 opinion of David Slagle, Ph.D.; (4) obtain further evidence from Dr. Slagle if necessary; (5)
07 obtain evidence from a medical expert if necessary; and (6) obtain any necessary additional
08 vocational evidence. Plaintiff and the ALJ may produce additional evidence and raise
09 additional issues on remand. Also, upon receipt of the Court's Order of Remand, the Appeals
10 Council shall promptly enter the July 12, 2012 VA decision into the record and ensure that
11 plaintiff and plaintiff's attorney are notified of their further rights. (Dkt. 19.)

12 The Court will retain jurisdiction over the action pending further administrative
13 development of the record. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98-102 (1991). If the
14 outcome of a de novo hearing is unfavorable to plaintiff, plaintiff may seek judicial review by
15 reinstating this case, rather than filing a new complaint. A proposed order accompanies this
16 Report and Recommendation.

17 DATED this 1st day of November, 2012.

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20 Mary Alice Theiler
21 United States Magistrate Judge
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